

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

LOUD RECORDS, LLC, a Delaware
corporation, et al.,

No. C 07-3090 WDB

Plaintiffs,

**ORDER RE APPLICATION FOR
LEAVE TO TAKE IMMEDIATE
DISCOVERY**

v.

JOHN DOE,

Defendant.

On June 15, 2007, plaintiffs filed their Application for Leave to Take Immediate Discovery. The Court has reviewed plaintiffs' Application and supporting papers and ORDERS as follows.

Plaintiffs have demonstrated good cause to obtain a court order permitting them to propound discovery before the time contemplated in F.R.C.P., Rule 26(d). First, plaintiffs cannot proceed with their case without identifying defendant. Second, plaintiffs have proffered evidence that would support an inference that the records kept by ISP providers, records that would enable plaintiff to identify defendant, are often destroyed within a short time of their creation.

Plaintiffs may serve immediate discovery on the University of California -- Santa Cruz to obtain the identity of John Doe by serving a F.R.C.P., Rule 45 subpoena that seeks documents sufficient to identify defendant John Doe,

1 including name, current address, telephone number, e-mail address, and Media
2 Access Control address.

3 **Within five (5) court days of receiving service of the subpoena**, the
4 University of California -- Santa Cruz **MUST** provide written notice to the
5 subscriber whose identity is to be disclosed in response to the subpoena.

6 If the University of California -- Santa Cruz and/or the subscriber whose
7 identity is to be disclosed wish to move to quash the subpoena, they shall do so
8 before the return date of the subpoena, which shall be thirty (35) days from the date
9 of service.

10 Once served with plaintiffs' subpoena, the University of California -- Santa
11 Cruz **MUST PRESERVE** the data and information sought via the subpoena
12 pending resolution of any timely filed motion to quash.

13 Plaintiffs **MUST SERVE** a copy of this order on the University of California
14 -- Santa Cruz along with service of the subpoena.

15 Any information disclosed to Plaintiffs in response to the Rule 45 subpoena
16 shall be used by plaintiffs solely for the purpose of protecting plaintiffs' rights
17 under the Copyright Act as set forth in the Complaint, filed June 13, 2007.

18 The Court declines plaintiffs' request for a statement by the Court that
19 disclosure is ordered pursuant to 47 U.S.C. §551(c)(2)(B). This Order authorizes
20 plaintiffs to propound discovery via a Rule 45 subpoena. This Order does not
21 compel disclosure of the information sought by the subpoena. Accordingly,
22 plaintiffs have not demonstrated the necessity of such a statement at this juncture
23 in the proceedings. Moreover, the Court declines to rule on the applicability of
24 §551(c)(2)(B) in the absence of full briefing on the subject.

25 **IT IS SO ORDERED.**

26 Dated: June 21, 2007

27 Copies to: parties, wdb, stats
28



WAYNE D. BRAZIL
United States Magistrate Judge